



# **Texas Department of Insurance**

## **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

### **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

#### **GENERAL INFORMATION**

##### **Requestor Name and Address**

SUMMIT REHAB CENTERS  
C/O THE MORRIS LAW FIRM  
702 S BECKLEY AVE  
DALLAS TX 75203

##### **Respondent Name**

MITSUI SUMITOMO INSURANCE USA

##### **Carrier's Austin Representative Box**

Box Number 19

##### **MFDR Tracking Number**

M4-06-6940-01

##### **MFDR Date Received**

July 5, 2006

#### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "DOS 10/24/05 through 11/2/05, 11/7/05 through 12/28/05: The claim is compensable, included please find a benefit dispute agreement signed by the carrier and employee representative on 5/15/06. DOS 11/03/05, 12/15/05 (97012), and 12/16/05 (97012): Provided [sic] billed following all the correct fee guidelines."

**Amount in Dispute:** \$1,371.71

#### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** The insurance carrier did not respond to the DWC60 request.

#### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 27, 2005 through December 28, 2005	Physical therapy services, and DWC73	\$1,371.71	\$735.10

#### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

##### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute filed on or after January 1, 2002.
2. 28 Texas Administrative Code §134.202 sets out the fee guideline for professional medical services provided on or after September 1, 2002.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated November 23, 2005

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated

Explanation of benefits dated November 30, 2005

- W11 – Disallowed; this claim is non-compensable

- W11 – Entitlement to benefits. Not finally adjudicated
- 42 – Disallowed; this claim is non-compensable

Explanation of benefits dated December 2, 2005

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated

Explanation of benefits dated December 7, 2005

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated

Explanation of benefits dated December 8, 2005

- W12 – Disallowed; this claim is non-compensable
- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated

Explanation of benefits dated December 9, 2005

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated
- 42 – Distinct procedural service-procedure and services not normally reported together. Disallowed; this claim is non-compensable

Explanation of benefits dated December 15, 2005

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated

Explanation of benefits dated December 21, 2005

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated
- W11 – Distinct procedural service-procedure and services not normally reported together

Explanation of benefits dated December 28, 2005

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated

Explanation of benefits dated December 30, 2005

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated
- W11 – Distinct procedural service-procedure and services not normally reported together

Explanation of benefits dated January 3, 2006

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated

Explanation of benefits dated January 13, 2006

- W11 – Disallowed; this claim is non-compensable
- W11 – TWCC 73 work status report

Explanation of benefits dated January 17, 2006

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated
- W11 – Distinct procedural service-procedure and services not normally reported together

Explanation of benefits dated January 30, 2006

- W11 – Disallowed; this claim is non-compensable
- W11 – Entitlement to benefits. Not finally adjudicated
- W11 – Distinct procedural service-procedure and services not normally reported together

## **Issues**

1. Did the requestor submit an updated table?
2. Was the injury the requestor treatment part of the compensable injury?
3. Are some of the disputed charges in conflict with CCI edits?
4. Is the requestor entitled to reimbursement?

## Findings

1. The requestor submitted an updated table on September 4, 2008. The new disputed amount is \$1,371.71. The MDR will review on the disputed charges indicated on the updated table.
2. Per 28 Texas Administrative Code §133.307 the MDR request may be submitted if the dispute does not contain issues of compensability, extent of injury or liability (CEL). Review of the medial bills finds that the requestor billed with diagnosis code 722.73 *Intervertebral lumbar disc disorder with myelopathy, lumbar region*. The requestor included a copy of a Benefit Review Conference agreement signed by the Division on May 15, 2006. Therefore, the CEL issues were resolved prior to the filing of the MDR request. MDR has jurisdiction to review the disputed issues. Review of the Benefit Review Agreement dated May 15, 2006 finds that:
  - Did the claimant sustain a compensable on 10/4/2005? Parties agree the claimant did sustain a compensable injury to the low back on 10/4/05.
  - Did the claimant have disability resulting from the compensable injury? Parties agree the claimant had disability from 10/5/05 through 4/23/06 and further agree there was no disability from 4/25/06 through the present.
  - The requestor treated the compensable low back, therefore MDR will issue a decision based on the information provided in the DWC060 request.
3. Per 28 Texas Administrative Code §134.202 "(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section." CCI edits were run to determine if edit conflicts exists for dates of service August 13, 2003 through October 31, 2003. The following CCI edit conflicts were identified:
  - Dates of service 10/27, 10/28, 10/31, 11/3, 11/7, 11/8, 11/9, 11/10, 11/11, 11/15, 11/17, 11/18, 11/22, 11/29, 11/30, 12/1, 12/5, 12/9, 12/13, 12/14, 12/28/2005, procedure 98940 and component procedure 97140 are unbundled. The standard policy statement reads "Standards of medical/surgical practice."
4. Review of the CMS-1500s indicates the requestor billed CPT code 97140 with modifier -59. The *CPT Manual* defines modifier -59 as follows: **Modifier -59: "Distinct Procedural Service:** Under certain circumstances, the physician may need to indicate that a procedure or service was distinct or independent from other services performed on the same day. Modifier 59 is used to identify procedures/services that are not normally reported together, but are appropriate under the circumstances. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries)not ordinarily encountered or performed on the same day by the same physician. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used."
  - Review of the documentation submitted by the requestor does meet the documentation requirements for appending the modifier -59, therefore reimbursement cannot be recommended for CPT code 97140-59 for dates of service 10/27/2005 through 12/28/2005.
5. The requestor billed CPT code 97012 defined as "application of a modality to 1 or more areas; traction, mechanical." Review of documentation submitted by the requestor finds that the requestor documented CPT code 97012 billed on 10/27/2005 through 11/17/2005. The requestor is therefore entitled to reimbursement for CPT code 97012 for dates of service; 10/27/05, 10/28/05, 10/31/05, 11/3/05, 11/8/05, 11/9/05, 11/10/05, 11/11/05, 11/17/05, 11/18/05, 11/22/05, 11/29/05, 11/30/05, 12/1/05, 12/5/05, 12/9/05, 12/13/05, 12/14/05, 12/16/05, and 12/22/05.
  - The fee guideline reimbursement is \$19.01 per unit the requestor billed and documented two units. The insurance carrier paid one unit for dates of service 11/3/05, 12/14/05, and 12/16/05, therefore the requestor is entitled to additional reimbursement in the amount of  $\$19.01 \times 3 = \$57.03$ .
6. The requestor billed two units for dates of service 10/27/05, 10/28/05, 10/31/05, 11/8/05, 11/9/05, 11/10/05, 11/11/05, 11/17/05, 11/18/05, 11/22/05, 11/29/05, 11/30/05, 12/1/05, 12/5/05, 12/9/05, 12/13/05, and 12/22/05. The fee guideline reimbursement is \$38.02. The requestor billed and documented two units per date of service. Reimbursement is recommended in the amount of \$646.34.
7. The requestor billed CPT code 97116 on November 17, 2005, CCI edits were run to determine if edit conflicts exists for this date of service. No CCI edits conflicts were found. Review of the documentation submitted by the requestor supports that the services billed were rendered, therefore the requestor is entitled to reimbursement in the amount of \$31.73.

8. The requestor billed CPT code 99080-73 for completion of a DWC 73 Work Status Report. Review of the documentation submitted included four copies of DWC-73's three were not dated and one was dated October 25, 2005. The requestor did not include copies of the DWC 73 Work Status Reports for dates of service November 25, 2005 and December 27, 2005. Therefore the Division was unable to review the documents to make a determination on reimbursement. Reimbursement cannot be recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$735.10.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$735.10 plus applicable accrued interest per 28 Texas Administrative §134.803 for dates of service prior to 5/2/06, due within 30 days of receipt of this Order.

### **Authorized Signature**

_____	_____	February 27, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**